



MEMORANDUM

October 19, 2012

To: Susan Swift, Director, Community Planning and Development Services

From: Deane Mellander, Zoning Administrator

Subject: History of Sign Code Revisions

During two recent text amendments some comments were received that suggested the need for a more thorough review of the sign regulations. One of them, recently adopted TXT2012-00234, was a result of discussions among the staff and representatives of the Rockville Chamber of Commerce. This text amendment allowed more flexibility in the administration of the sign ordinance (Article 18) so as to reduce the need for approval by the Sign Review Board. The other application, TXT2012-00232, amended the ordinance for Town Square to allow certain types of signs that are currently prohibited by the ordinance.

The current format of the sign ordinance essentially dates back to the previous comprehensive revision of the zoning ordinance in 1976. A substantive revision was done in 2004 (TXT2004-00210) mostly in response to a suit filed against the City claiming that the sign regulations were an unconstitutional limitation on free speech. While the suit was dismissed, the City deemed it advisable to update the sign code to clarify the purposes, intent and administration of the sign regulations so as to deflect any possible future challenges. With very minor changes, the sign regulations reflect the 2004 revisions.

One of the driving forces behind the major revisions in 1976 was the plethora of different signs along Rockville Pike. The fundamental intent of the regulations for commercial signs was to bring about a more consistent appearance of the signs, especially in large, multi-tenant shopping centers. Thus the provision in the code that states:



Rockville Pike signs ca. 1965

“For a lot occupied by more than one (1) business/tenant, each building sign must be compatible and harmonious (but not necessarily identical) in terms of design, color, shape, size, style, material, and mounting with all other signs on the building or in the center.”

Since that time, the signs in the City have become much more regularized as old, nonconforming signs have been replaced and as new shopping centers have opened using the new regulations.

The intent of sign regulations is to control the size, number, height, placement and other characteristics to aid in avoiding visual clutter, reduce distractions for the traveling public and generally minimize the impact of signs on traffic, pedestrian safety and aesthetics. In general, sign regulations must be content-neutral, meaning that the City cannot regulate the wording of a sign except that it cannot be obscene, indecent or purient.



Contemporary Monument
Entry Sign



Typical multi-tenant center with channel letter signs consistent with the current sign ordinance



Public school sign with animated crawl lettering; exempt from City code

In brief, the sign regulations do not allow the following:

- Signs that are a safety hazard
- Signs that could confuse travelers by size, shape or wording
- Off-premises signs –billboards or other signs not located on the site of the business
- Signs in the shape of persons, animals, or vegetables, and cannot be animated
- Flashing, blinking, fluttering, or lighting that varies in intensity or provides the illusion of motion
- Portable signs, except as expressly permitted
- Signs mounted on vehicles that add to the signage for a business
- Signs extending above the roof of a building
- Flags, banners, pennants, spinners, etc. except as expressly permitted
- Obscene, prurient, or indecent signs

No signs may be erected on public property except as specifically approved by the City Manager. However, the sign regulations do not apply to County, State or Federal properties, and they may erect their own signs. Public safety signs erected by a government authority are generally exempt from the sign regulations.

Signs serve a number of purposes. The sign regulations for commercial/identification signs are essentially divided into three groupings – signs in residential zones; signs in commercial/industrial zones; and election signs. Within the residential zones, the signs allowed for single-family dwellings are limited to 150 square inches (approximately one square foot). This includes signs for child care homes and no-impact home occupations. Nonresidential uses permitted in the residential zones (such as churches) are allowed to have a sign up to 24 square feet. The sign may be illuminated, and may have changeable copy. Uses allowed in residential zones by special exception (such as private schools and nursing homes) may have signs as approved by the Board of Appeals as part of the special exception approval.

There are also directional signs. These are signs that don't advertise or identify a specific owner/user/tenant, but rather simply direct traffic into or through parking lots, to different neighborhoods, or identify parking or loading areas. Traffic control signs are normally installed by the controlling governmental authority – by the State for state highways and by the City for city streets.

Signs in the commercial/industrial zones are regulated as to size and location primarily as a function of the length of the building faces. Typically, the signage is measured at 2 square feet of sign for each foot of building face up to 50 square feet of sign area. Then if the building face is longer, additional sign area is allowed at a one-for-one ratio. If a free-standing sign is proposed, the square footage of that sign is included in the amount allowed by the building frontage. As an example, for a building with 100 feet of frontage, up to 100 square feet of signage is allowed. This may include 50 square feet of signage on the building, and another 50 square feet for a free-standing sign.

With the adoption of TXT2012-00234, existing multi-tenant developments may now apply to the Sign Review Board for a sign package that deviates from the usual standards. Previously, this provision had only applied to new developments or comprehensive redevelopments and had been utilized for the most part to projects processed under the former special development procedures, such as Fallsgrove, King Farm and the Town Square projects.



Sign Variations – Fallsgrove CPD



Sign Variations – Town Square PDP

Going Forward

In the discussions between the staff and the Chamber of Commerce representatives leading up to the introduction of text amendment TXT2012-00234, a few issues were raised that the staff felt were general policy issues beyond the scope of the intent of the text amendment. These

issues are basic to the current intent of the sign regulations, and any changes should be carefully considered. Changing these policies could change the character of the city's appearance.

The following issues have been identified, followed by a commentary on how the issue relates to the current code requirements.

Off-Premises Signs: An off-premises sign is one that is not located on the property to which the sign refers. Billboards are the most extreme visible example of an off-premises sign. Businesses like these signs because they offer the travelling public advance notice of their existence and location. On the other hand, a proliferation of such signs leads to excessive roadside clutter and can be a safety issue when such signs begin to affect visibility. The modern LED billboards which flash sequential ads can also be very distracting. There may be occasional instances where a business is not located on a principal street, and an off-premises sign might be justified. If this is deemed desirable, the regulation would have to be narrowly crafted so as not to open the door for most or all businesses to take advantage of the provision.

Rooftop Signs: Currently, signs are not permitted to extend above the roof more than one percent of the building height. A pending text amendment has requested at least a partial exemption from this regulation in order to erect a roof-top sign that would be up to 15 percent of the building height. Rooftop signs are the essential equivalent of a billboard, although typically the signs would either be mounted on the building housing the business that the sign is advertising or on a building within a project site. The issue again is one of potential proliferation and attendant clutter of the city skyline, particularly if the sign is illuminated at night.

Electronic Message Boards: This term covers signs that have some aspect of internal illumination and/or animation. The modern LED type signs have become very popular because they can show multiple messages. This term also covers signs that include crawl messages that can be changed frequently. A number of public schools in the City have installed such signs which, as noted, are exempt from the City's regulations. There are a number of issues with these signs. They can easily become off-premises signs even if they were originally intended only for a single use because new messages can easily be added remotely. The larger signs can become a distraction for traffic, especially at night.

Illuminated Signs with Motion: The code currently prohibits signs that flash, blink, flutter, vary in intensity, or provide the illusion of motion. The Mayor and Council considered this issue in discussing signs in windows as part of the consideration of TXT2012-00234, and did not support flashing or crawling signs in that instance. If there is any interest in revisiting this topic, then the challenge becomes how to regulate such signs so they don't begin proliferating throughout the city.

The same is true with billboards. The City has prohibited billboards for at least 30 years. Any changes to the regulations for off-premises signs will likely attract the interest of the billboard industry.

Any comprehensive review of the sign code needs to begin with a survey of regulations in other jurisdictions that have recently updated their codes, along with a review of published reports and comments on sign regulation. There should also be an extensive public outreach to the city residents to gather their comments on how they perceive signs and what are the good and bad aspects of how signs are used.

The development of any sign code must take cognizance of the First Amendment. In general, sign regulations cannot regulate content, beyond prurient or obscene. Sign codes generally can regulate reasonable time, place and manner restrictions. Commercial speech can generally be more regulated than personal or political speech. The revisions to the City's sign code in 2004 were done as a response to a First Amendment challenge. Any new updates to the sign regulations should include thorough legal input on the current state of the law regarding signs and First Amendment issues.

Out of this process should be the development of a guiding set of principles that will become the basis for drafting the sign code revisions. These guidelines should include direction on: the level of consistency among signs in a given project; what, if any rules there should be regarding off-premises signs; potential exceptions to the normal sign standards for certain uses or in certain zones or districts; maximum heights and setbacks for free-standing signs; process for removal of nonconforming signs; consideration of whether the Board of Appeals should be the sign approval authority for special exceptions; etc. Given the work load of the current staff, this work should be undertaken with outside assistance.

This would be followed by drafting a comprehensive draft revision to the code (a text amendment) that would go through the normal review and public hearing process with the Planning Commission and the Mayor and Council.